

PETITION FOR ZONING VARIANCE 85-81-A

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section 1802.3.0.1 to permit a side street setback of 13.6' instead of the required 25'.

- of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (Indicate hardship or practical difficulty)
1. 1st. St. is not used by traffic. It is a right-of-way to the river.
 2. Cannot acquire additional property to allow for the 25' setback.
 3. Most properties in the Swan Point Sub-Division are 50' wide or less and do not conform to the 25' setback.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law For Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser: _____
(Type or Print Name)
Signature _____
Address _____
City and State _____
Attorney for Petitioner: _____
(Type or Print Name)
Signature _____
Address _____
City and State _____
Name, address and phone number of legal owner, contract purchaser or representative to be contacted: _____
Richard D. Connelly
Name _____
Address _____
City and State _____
Attorney's Telephone No.: _____
1803 Forrest Road 668-7272
Address _____
City and State _____
Phone No. _____

ORDERED By The Zoning Commissioner of Baltimore County, this 31st day of July, 1984, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be had before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the 24th day of September, 1984, at 10:15 o'clock A.M.

Carl J. Hall
Zoning Commissioner of Baltimore County.
(over)

BALTIMORE COUNTY

ZONING PLANS

ADVISORY COMMITTEE



PETITION AND SITE PLAN

EVALUATION COMMENTS

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

September 18, 1984

COUNTY OFFICE BLDG.
111 W. Chesapeake Ave.
Towson, Maryland 21204

Mr. & Mrs. Richard D. Connelly
1803 Forrest Road
Baltimore, Maryland 21234

RE: Case No. 85-81-A (Item No. 21)
Petitioner - Richard D. Connelly, et ux
Variance Petition

Dear Mr. & Mrs. Connelly:

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above referenced petition. The following comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development plans that may have a bearing on this case. The Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of the requested zoning.

In view of your proposal to construct a dwelling on this vacant lot, this hearing is required.

Since this property is in a state critical area, additional comments were submitted from the Bureau of Engineering and the Planning Office. However, comments from the Health Department were not available at the time of this writing.

Enclosed are all comments submitted from the members of the Committee at this time that offer or request information on your petition. If similar comments from the remaining members are received, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

Very truly yours,

Nicholas B. Commodari

NICHOLAS B. COMMODARI
Chairman
Zoning Plans Advisory Committee

ENCLOSURE

Enclosures



BALTIMORE COUNTY
DEPARTMENT OF PUBLIC WORKS
TOWSON, MARYLAND 21204

HARRY J. PISTEL, P.E.
DIRECTOR

August 29, 1984

Mr. Arnold Jablon
Zoning Commissioner
County Office Building
Towson, Maryland 21204

Re: Item #21 (1984-1985)
Property Owner: Richard D. Connelly, et ux
N/W cor. 1st St. and Hinton Ave.
Acres: 58.6 x 170
District: 15th

Dear Mr. Jablon:

The following comments are furnished in regard to the plat submitted to this office for review by the Zoning Advisory Committee in connection with the subject item.

General:

Baltimore County highway and utility improvements are not directly involved.

Hinton Avenue, an existing public road, is proposed to be further improved in the future on a minimum 40-foot right-of-way, with fillet areas for sight distance at the 1st Street intersection.

Development of this property through stripping, grading and stabilization could result in a sediment pollution problem, damaging private and public holdings downstream of the property. A grading permit is, therefore, necessary for all grading, including the stripping of top soil.

The Petitioner must provide necessary drainage facilities (temporary or permanent) to prevent creating any nuisances or damages to adjacent properties, especially by the concentration of surface waters. Correction of any problem which may result, due to improper grading or improper installation of drainage facilities, would be the full responsibility of the Petitioner.

The plan indicates the elevation of this property as 4.6 feet. The property to be developed is located adjacent to tidewater. The Petitioner is advised that the proper sections of the Baltimore County Building Code must be followed whereby elevation limitations are placed on the lowest floor (including basements) of residential development.

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: James Markle, P.E., Chief
Storm Drain Design & Approval Section Date: August 29, 1984

FROM: Edward A. McDonough, P.E.

SUBJECT: Zoning Item #21 (1984-1985)
Critical Area
Richard D. Connelly, et ux
N/W cor. 1st St. and Hinton Ave.
District 15

We are forwarding one print of the above zoning item for your review and comments. This site is located in a "critical area".

EDWARD A. McDONOUGH, P.E., Chief
Developers Engineering Division

EAM:

Attachment

No comment on received. Property located within 100 ft. tidal floodplain.

RECEIVED

AUG 31 1984
DEVELOPERS ENGINEERING DIVISION
BUREAU OF PUBLIC SERVICES



BALTIMORE COUNTY
DEPARTMENT OF TRAFFIC ENGINEERING
TOWSON, MARYLAND 21204
494-3550

STEPHEN E. COLLINS
DIRECTOR

July 27, 1984

Mr. Arnold Jablon
Zoning Commissioner
County Office Building
Towson, Maryland 21204

Item No. 9, 17, 18, 19, and 21 ZAC-Meeting of July 31, 1984
Property Owner:
Location:
Existing Zoning:
Proposed Zoning:

Acres:
District:

Dear Mr. Jablon:

The Department of Traffic Engineering has no comments for item numbers 9, 17, 18, 19, and 21.

Michael S. Flanagan
Michael S. Flanagan
Traffic Engineering Assoc. II

MSF/can

Item #21 (1984-1985)
Property Owner: Richard D. Connelly, et ux
Page 2
August 29, 1984

General: (Cont'd)

This property is in a "critical area". The first floor elevation of the house must be at or above 10.4 feet above sea level. No basement will be permitted.

Very truly yours,

Gilbert S. Benson
GILBERT S. BENSON, P.E., Asst. Chief
Bureau of Public Services

GSB:EAM:FWR:ss
AA-WW Key Sheet
22 SE 41 Pos. Sheet
ES 6 K Topo
112 Tax Map

BALTIMORE COUNTY OFFICE OF PLANNING & ZONING

County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

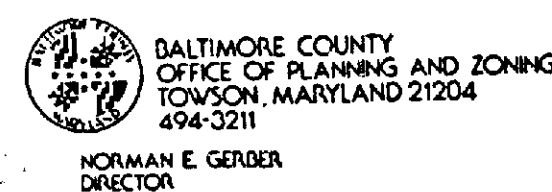
Your petition has been received and accepted for filing this 31st day of July, 1984.

Petitioner: *Richard D. Connelly*
Petitioner's Attorney: _____
Received by: *Nicholas B. Commodari*
Nicholas B. Commodari
Chairman, Zoning Plans
Advisory Committee

ARNOLD JABLON
Zoning Commissioner

Pursuant to the advertisement, posting of property, and public hearing on the Petition and it appearing that strict compliance with the Baltimore County Zoning Regulations would/would not result in practical difficulty and unreasonable hardship upon the Petitioner(s) and the granting of the variance(s) requested will/will not adversely affect the health, safety, and general welfare of the community, the variance(s) should /should not be granted.

Therefore, IT IS ORDERED by the Zoning Commissioner of Baltimore County, this _____ day of _____, 19____, that the herein Petition for Variance(s) to permit _____



Mr. Arnold Jablon
Zoning Commissioner
County Office Building
Towson, Maryland 21204

8-6-84
Re: Zoning Advisory Meeting of 7-31-84
Item # 21
Property Owner: Richard D. Connelly, et ux
Location: NW Cor. 1st Street and Hinton Ave.

Dear Mr. Jablon:

The Division of Current Planning and Development has reviewed the subject petition and offers the following comments. The items checked below are applicable.

- () There are no site planning factors requiring comment.
- () A County Review Group Meeting is required.
- () A County Review Group Meeting was held and the minutes will be forwarded by the Bureau of Public Services.
- () This site is part of a larger tract; therefore it is defined as a subdivision. The plan must show the entire tract.
- () A record plat will be required and must be recorded prior to issuance of a building permit.
- () The access is not satisfactory.
- () The circulation on this site is not satisfactory.
- () The parking arrangement is not satisfactory.
- () Parking calculations must be shown on the plan.
- () This property contains soils which are defined as wetlands, and development on these soils is prohibited.
- () Construction in or alteration of the floodplain is prohibited under the provisions of Section 22-98 of the Development Regulations.
- () Development of this site may constitute a potential conflict with the Baltimore County Master Plan.
- () The amended Development Plan was approved by the Planning Board on _____.
- () Landscaping should be provided on this site and shown on the plan. The property is located in a deficient service area as defined by Bill 178-79. No building permit may be issued until a Reserve Capacity Use Certificate has been issued. The deficient service is _____.
- () The property is located in a traffic area controlled by a "X" level intersection as defined by Bill 178-79, and as conditions change traffic capacity may become more limited. The Basic Services Areas are re-evaluated annually by the County Council.
- (X) Additional comments:

This site is located in the Chesapeake Bay Critical Area and is subject to environmental evaluation. All related comments will be provided by the Comprehensive Planning Division.

Eugene A. Bober
Chief, Current Planning and Development

cc: James Howell

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

MR. ARNOLD JABLON
Baltimore County Zoning Commissioner
Date: August 15, 1984
FROM: PAUL J. SOLOMON, Head
Environmental Planning Section, OPZ
Variance Request - Richard D. Connelly, et ux
SUBJECT: Second Street and Hinton Avenue

This variance request is consistent with the requirements of the Chesapeake Bay Critical Area regulations. Therefore, as part of your order, you can declare that Baltimore County, Maryland has reviewed this application involving property located in Maryland Chesapeake Bay Critical Area and has determined that it is consistent with the requirements of the State of Maryland to minimize adverse impacts on water quality and fish, wildlife, and plant habitat.

PJS:vh

PAUL J. SOLOMON, Head
Environmental Planning Section

cc: Norman E. Gerber, Director
Office of Planning and Zoning

Robert W. Marriott, Jr.
Deputy Director of Planning

Eugene A. Bober, Chief
Current Planning & Development, OPZ

Andrea Van Arsdale
Coastal Zone Planner

RE: PETITION FOR VARIANCE : BEFORE THE ZONING COMMISSIONER
NW Corner Hinton Ave. and : OF BALTIMORE COUNTY
First St. (9140 Hinton Ave.) :
15th District :
RICHARD D. CONNELLY, et ux, : Case No. 85-81-A
Petitioners :
: : : : :
ENTRY OF APPEARANCE

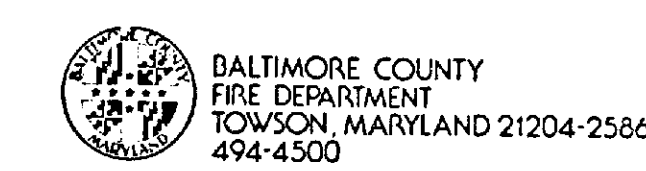
Please enter the appearance of the People's Counsel in the above-captioned matter. Notices should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final Order.

Phyllis Cole Friedman
Phyllis Cole Friedman
People's Counsel for Baltimore County

Peter Max Zimmerman
Peter Max Zimmerman
Deputy People's Counsel
Rm. 223, Court House
Towson, MD 21204
494-2188

I HEREBY CERTIFY that on this 4th day of September, 1984, a copy of the foregoing Entry of Appearance was mailed to Mr. and Mrs. Richard D. Connelly, 1803 Forrest Road, Baltimore, MD 21234, Petitioners.

Peter Max Zimmerman
Peter Max Zimmerman



PAUL H. REINCKE
CHIEF

August 14, 1984

Mr. Arnold Jablon
Zoning Commissioner
Office of Planning and Zoning
Baltimore County Office Building
Towson, MD 21204

Attention: Nick Commodari, Chairman
Zoning Plans Advisory Committee

RE: Property Owner: Richard D. Connelly, et ux
Location: NW Cor. 1st Street and Hinton Avenue

Item No.: 21

Zoning Agenda: Meeting of July 31, 1984

Gentlemen:

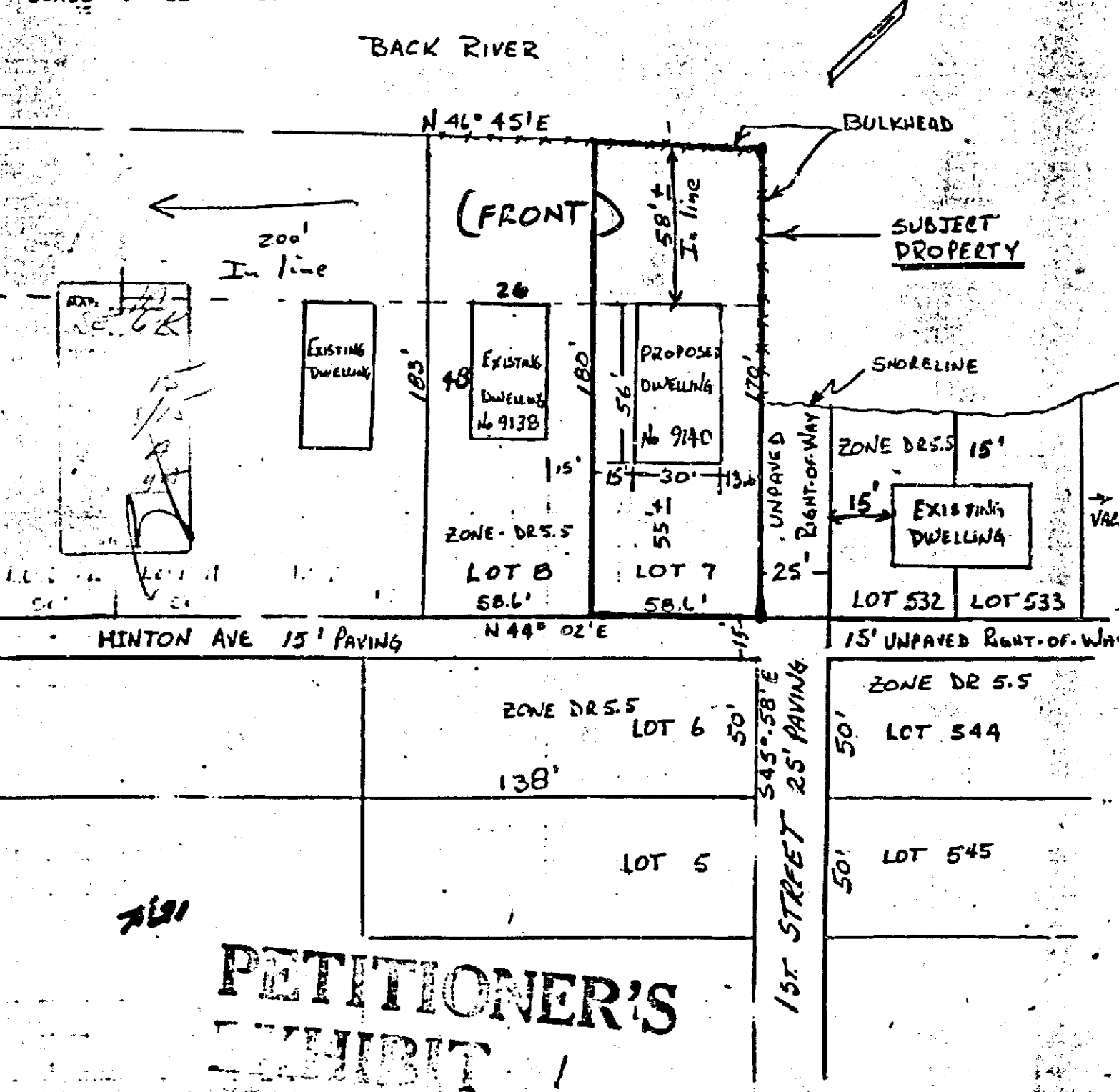
Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below marked with an "X" are applicable and required to be corrected or incorporated into the final plans for the property.

- () 1. Fire hydrants for the referenced property are required and shall be located at intervals of _____ feet along an approved road in accordance with Baltimore County Standards as published by the Department of Public Works.
- () 2. A second means of vehicle access is required for the site.
- () 3. The vehicle dead end condition shown at _____ EXCEEDS the maximum allowed by the Fire Department.
- () 4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operation.
- (X) 5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code", 1976 Edition prior to occupancy.
- () 6. Site plans are approved, as drawn.
- () 7. The Fire Prevention Bureau has no comments, at this time.

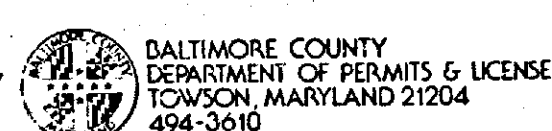
Noted and Approved: *George M. McCormick*
Planning Group Fire Prevention Bureau
Special Inspection Division

JK /mb /cm

PLAT FOR ZONING VARIANCE
OWNER: RICHARD D. & VIRGINIA M. CONNELLY
DISTRICT 15, ZONE DR 5.5
SUBDIVISION: SWAN POINT LOT 7
PLAT BOOK WPC NO. 8 FOLD 6
EXISTING UTILITIES: 8" SEWER, 8" WATER
FIRE HYDRANT: 2ND ST. & HINTON AVE.
BAY DRIVE & CROOKED POINT RD.
SCALE: 1" = 50' ELEVATION 4.6'



PETITIONER'S EXHIBIT



Mr. Arnold Jablon, Zoning Commissioner
Office of Planning and Zoning
County Office Building
Towson, Maryland 21204

Dear Mr. Jablon:

Comments on Item # 21 Zoning Advisory Committee Meeting are as follows:

Property Owner: Richard D. Connelly, et ux
Locations: NW Cor. 1st Street and Hinton Avenue
Existing Zoning: DR 5.5 (CRITICAL AREA)
Proposed Zoning: Variance to permit a side yard setback of 13.6' in lieu of the required 25'.

Acres: 58.6 x 170
District: 15th.

The items checked below are applicable:

- (X) All structures shall conform to the Baltimore County Building Code/Council Bill 1-82, except as otherwise noted in the proposed changes and other applicable codes.
- (X) A building and/or other permit shall be required before beginning construction.
- (X) Residential: Three sets of construction drawings are required to file a permit application. Architect/Engineer seal is/are not required. Non-reproduced seals and signatures are required on Plans and Technical Data.
- (X) Commercial: Three sets of construction drawings with a Maryland Registered Architect or Engineer shall be required to file a permit application.
- (X) An exterior wall erected within 6'0" for commercial uses or 3'0" for One & Two Family use group of an adjacent lot line shall be of one hour fire resistive construction, no openings permitted within 3'0" of lot lines. A fire wall is required if construction is on the lot line, see Table 101, line 2, Section 107 and Table 102, also Section 901.2.
- (X) Requested variance appears to conflict with the Baltimore County Building Code, Section 6.
- (X) A change of occupancy shall be applied for, along with an alteration permit application, and three required sets of drawings indicating how the structure will meet the Code requirements for the proposed change. Drawings may require a professional seal.
- (X) Before this office can comment on the above structure, please have the owner, through the services of a Registered in Maryland Architect or Engineer certify to this office that the structure for which a proposed change in use is proposed can comply with the height/area requirements of Table 505 and the required construction classification of Table 401.
- (X) Comments - The proposed may be subject to tidal inundation. See the attached Section of Building Code from Council Bill 1-82, Code Section 519.1 which may be applicable.

NOTE: These comments reflect only on the information provided by the drawings submitted to the office of Planning and Zoning and are not intended to be construed as the full extent of any permit. If desired, additional information may be obtained by visiting Room 122 (Plans Review) at 111 N. Chesapeake Ave., Towson.

Very truly yours,
Charles Z. Burman
Charles Z. Burman, Chief
Plans Review

SPECIAL NOTE FOR CONSTRUCTION IN TIDAL OR RIVERINE AREAS BILL 1-82 BALTIMORE COUNTY BUILDING CODE 1981 EFFECTIVE MARCH 25, 1982

SECTION 519 A section added to read as follows:

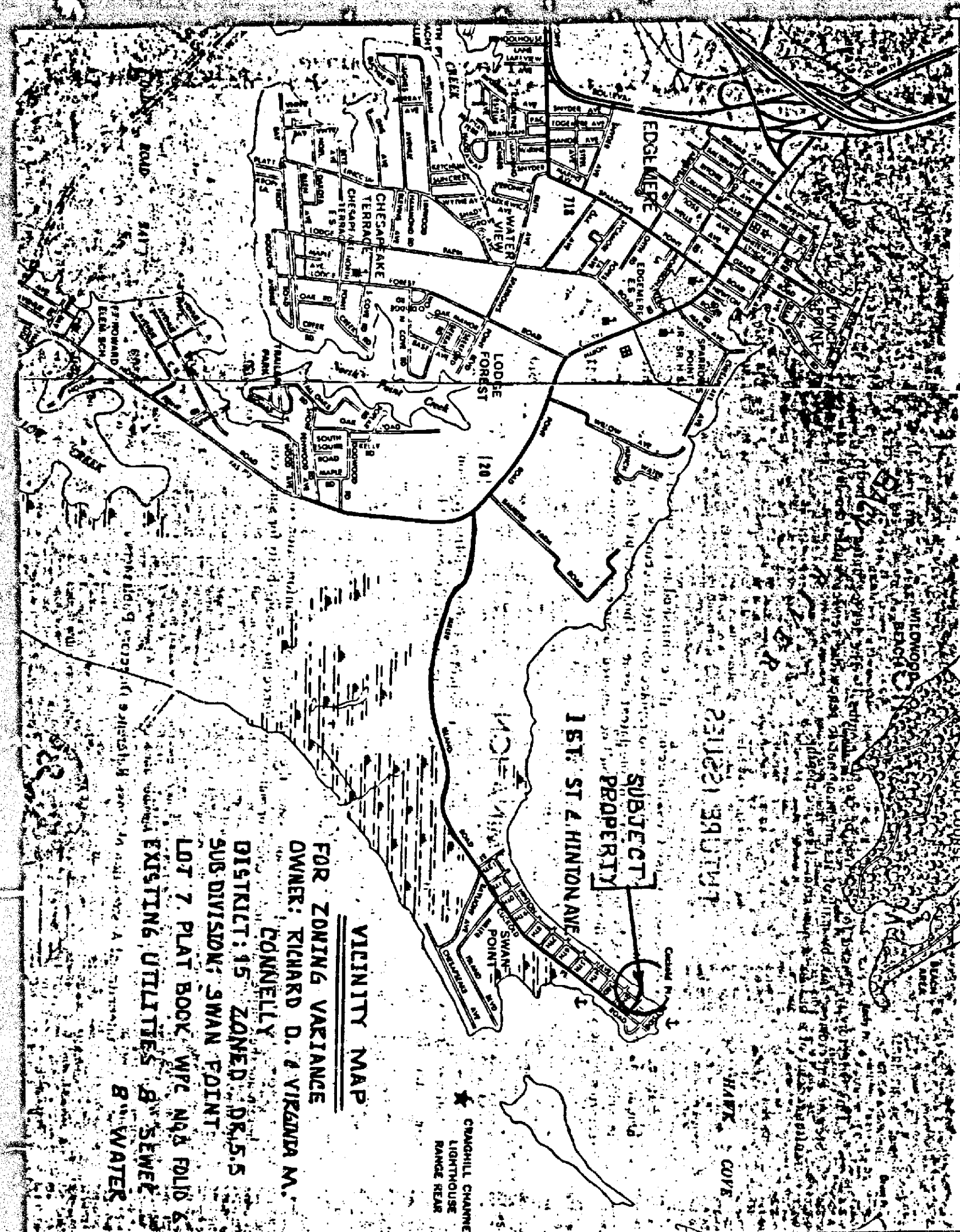
SECTION 519.0 CONSTRUCTION IN AREAS SUBJECT HAZARD TO FLOODING

519.1 AREAS SUBJECT TO INUNDATION BY TIDEWATERS:

1. Whenever building or additions are constructed in areas subject to inundation by tidewaters, the building's lowest floor (including basement) shall be not lower than one (1) foot above the 100 year flood elevation, as established by the U.S. Army Corps of Engineers or the Federal Flood Insurance study, whichever is more restrictive. These buildings or additions shall be designed and adequately anchored to prevent flotation, collapse, or lateral movement of the structure with materials resistant to flood damage.
2. Crawl space under buildings constructed in the Tidal Plain, as determined by the U.S. Army Corps of Engineers or the Federal Flood Insurance study, whichever is the more restrictive, shall be constructed so that water will pass through without resulting debris causing damage to the improvements of any property.
3. New or replacement utility systems, including but not limited to water supply, sanitary sewage, electric, gas and oil, must be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and require onsite waste disposal systems to be located so as to avoid impairment of them or contamination from them during flooding.

519.2 RIVERINE AREAS SUBJECT TO INUNDATION BY SURFACE WATERS WITHIN THE 100 YEAR FLOOD PLAIN.

1. No structures or additions shall be constructed within the 100 year flood plain of any watercourse. The 100 year flood plain shall be based upon the Federal Flood Insurance study or the Department of Public Works, whichever is the more restrictive; this determination shall include planned future development of the watershed area.
2. Reconstruction of residential dwelling units shall be governed by Sections 106.0 or 123.0 as applicable, except that rebuilding of residential dwelling units damaged in excess of 50 percent of physical value shall also be governed by the provisions of Subsection 519.1 of this section.
3. Reconstruction of other than residential buildings or structures in the riverine areas shall be made to conform to 519.1 when damage exceeds 50 percent of physical value.

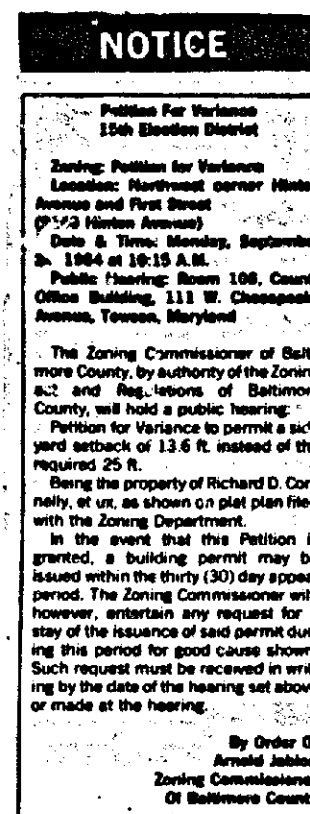


ORIGINAL
CERTIFICATE OF PUBLICATION

Dundalk, MD., Oct. 6, 19 84
THIS IS TO CERTIFY, that the annexed advertisement was published in THE BALTIMORE COUNTY JOURNAL, a weekly newspaper, published in Dundalk, Baltimore County, Maryland, appearing on SEPTEMBER 6, 19 84

The Baltimore County Journal,

Publisher



BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

Arnold Jablon
TO: Zoning Commissioner
Date: September 5, 1984
Norman E. Gerber, Director
FROM: Office of Planning and Zoning
Zoning Petition Nos. 85-70-A, 85-74-A, 85-75-A,
SUBJECT: 85-76-A, 85-77-A, 85-80-A, 85-81-A, and 85-85-A

There are no comprehensive planning factors requiring comment on these petitions.

Norman E. Gerber
Norman E. Gerber, Director
Office of Planning and Zoning

NEG/JGH/sf

August 28, 1984

Mr. & Mrs. Richard D. Connelly
1803 Forrest Road
Baltimore, Maryland 21234

NOTICE OF HEARING

Re: Petition for Variance
NW/cor. Hinton Avenue and First Street
(9140 Hinton Avenue)
Richard D. Connelly, et ux - Petitioners
Case No. 85-81-A

TIME: 10:15 A.M.

DATE: Monday, September 24, 1984

PLACE: Room 106, County Office Building, 111 West Chesapeake Avenue, Towson, Maryland

Arnold Jablon
Zoning Commissioner
of Baltimore County

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE-REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

No. 131929

DATE: 9/20/84 ACCOUNT: 01-615.000

AMOUNT: 35.00

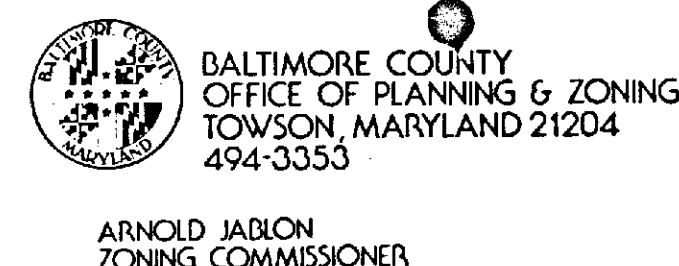
RECEIVED: Richard D. Connelly
FOR: Variance # 21

6 013*****36501a-8204f

VALIDATION OR SIGNATURE OF CASHIER

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District: 15 Date of Posting: 9/3/84
Posted for: Richard D. Connelly, et ux
Petitioner: Richard D. Connelly, et ux
Location of property: 1803 Forrest Road, Baltimore, MD 21234
Location of Sign: front of property (parcel # 9140 Hinton Ave.)
Remarks: Brand Human
Posted by: Brand Human Date of return: 9/12/84
Number of Signs: 1



Mr. & Mrs. Richard D. Connelly
1803 Forrest Road
Baltimore, Maryland 21234

Re: Petition for Variance
NW/cor. Hinton Avenue and First Street
(9140 Hinton Avenue)
Case No. 85-81-A

Dear Mr. & Mrs. Connelly:

This is to advise you that \$40.50 is due for advertising and posting of the above property.

This fee must be paid and our zoning sign and post returned on the day of the hearing before an Order is issued. Do not remove sign until day of hearing.

Please make the check payable to Baltimore County, Maryland, and remit to Mrs. Arlene January, Zoning Office, Room 113, County Office Building, Towson, Maryland 21204, before the hearing.

Sincerely,

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE-REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

No. 134350

DATE: 9-24-84 ACCOUNT: R-01-615-000

AMOUNT: \$ 40.50

RECEIVED: Richard D. Connelly
FROM: advertising + posting fee - 85-81-A

6 024*****40501a-8244f

VALIDATION OR SIGNATURE OF CASHIER

Petition For Zoning Variance Continued

Owner: Richard D. & Virginia M. Connelly
1803 Forrest Road
Baltimore, MD 21234
668-7272

ZONING DESCRIPTION

A lot located on the northwest corner of 1st. St. and Hinton Ave., being known as Lot No. 7 as shown on the amended Plat of Swan Point which plat is recorded among the land records of Baltimore County in Plat Book WPC No. 8 folio 6. Also known as 9140 Hinton Avenue.

PETITION FOR VARIANCE

15th Election District

ZONING: Petition for Variance
LOCATION: Northwest corner Hinton Avenue and First Street
(9140 Hinton Avenue)
DATE & TIME: Monday, September 24, 1984 at 10:15 A.M.
PUBLIC HEARING: Room 106, County Office Building, 111 W. Chesapeake Avenue, Towson, Maryland

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing:

Petition for Variance to permit a side yard setback of 13.6 ft. instead of the required 25 ft.

Being the property of Richard D. Connelly, et ux, as shown on plat plan filed with the Zoning Department.

In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be received in writing by the date of the hearing set above or made at the hearing.

BY ORDER OF
ARNOLD JABLON
ZONING COMMISSIONER
OF BALTIMORE COUNTY

CERTIFICATE OF PUBLICATION

TOWSON, MD., Sept. 6, 19 84

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper printed and published in Towson, Baltimore County, Md., appearing on SEPT. 6, 19 84

THE JEFFERSONIAN,

JB Ventral
Publisher

Cost of Advertising 18.00

IN RE: PETITION ZONING VARIANCE *
NW/corner of Hinton avenue and *
First Street (9140 Hinton Ave- *
nue) - 15th Election District *
Richard D. Connelly, et ux, *
Petitioners *

BEFORE THE
ZONING COMMISSIONER
OF BALTIMORE COUNTY
Case No. 85-81-A

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners here request a variance to permit a side street setback of 13.6 feet instead of the required 25 feet in order to construct a dwelling, as more fully described on Petitioners' Exhibit 1.

The Petitioners appeared and testified. There were no Protestants.

Testimony indicated that the 58.6' x 180' property, zoned D.R.5.5 and presently vacant, is located on the northwest corner of Hinton Avenue and First Street and fronts Back River. Hinton Avenue is the main access road to the area. First Street is a 25-foot wide street which runs perpendicular to Hinton Avenue. It is paved up to the corner on which the Petitioners' property is located; there, it becomes grass and gravel and serves as access to the waterfront. The proposed home would face the waterfront.

The Petitioners seek to construct a 30' x 56' dwelling on the site and need a setback variance to First Street as described above. In order to comply with the setback requirements, their home could only be 22 feet wide which would make any prospective home much too small for their family needs. There are other homes in the area which have received variances. The Petitioners' immediate neighbors are not opposed.

The site is located within the Chesapeake Bay Critical Area and is subject to environmental evaluation.

The Petitioners seek relief from Section 1B02.3.C.1, pursuant to Section 30, Baltimore County Zoning Regulations (BCZR).

For a residence constructed on a corner lot or on a lot adjacent to a side street where the house faces in a direction other than towards the side street, the side yard setback must be the same as the front yard setback required for that zone. See Section 211.3, 1963, BCZR; In the Matter of Char-del, Inc., Case No. 85-357-A.

An area variance may be granted where strict application of the zoning regulation would cause practical difficulty to the petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the petitioner must meet the following:

1. whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
2. whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and
3. whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).


It is clear from the testimony that if the variance were granted, such use as proposed would not be contrary to the spirit of the BCZR and would not result in substantial detriment to the public good.

After due consideration of the testimony and evidence presented, it is clear that a practical difficulty or unreasonable hardship would result if the instant variance were not granted. It has been established that the requirement the Petitioners seek relief from here would unduly restrict the use of the land to the special conditions unique to this particular parcel. In addition, the variance requested will not be detrimental to the public health, safety, and general welfare.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the variance requested should be granted.

Therefore, IT IS ORDERED by the Zoning Commissioner of Baltimore County, this 25th day of September, 1984, that the Petition for Zoning Variance to permit a side street setback of 13.6 feet instead of the required 25 feet be and the same is hereby GRANTED, from and after the date of this Order, subject, however, to the following restrictions:

1. The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the applicable appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.
2. Baltimore County, Maryland has reviewed this application involving property located in the Maryland Chesapeake Bay Critical Area and has determined that it is consistent with the requirements of the State of Maryland to minimize adverse impacts on water quality and fish, wildlife, and plant habitat.


Zoning Commissioner of
Baltimore County

ORDER RECEIVED FOR FILING

DATE September 25, 1984

BY John P. Harvey
ADMINISTRATIVE ASSISTANT

AJ/
cc. Mr. & Mrs. Richard D. Connelly
People's Counsel